

## **REMARKS**

### ***Claim Rejections- 35 U.S.C. § 102(a)***

Claims 24-26, 28, 29, and 31-53 are pending in the instant application. In the Office Action dated January 28, 2008, the Examiner rejected the pending claims of the instant application under 35 U.S.C. § 102(a) for alleged anticipation by Viovy et al. (WO 2002/00746; hereafter '746), which corresponds to Viovy et al. (US 2004/0101970; hereafter Viovy). In following the convention of the Examiner, all references to the cited art will be made to Viovy.

It is stated in the M.P.E.P § 2131 that in order to anticipate a claim, the reference must disclose each and every element of the claim:

"A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 814 F.2d 628, 631, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987).

The Applicant respectfully submits that Claims 24-26, 28, 29, and 31-53 of the instant application are not anticipated by Viovy, either expressly or inherently, as each and every feature of the present invention is not disclosed in Viovy.

In making the rejection, the Examiner has made specific reference to paragraphs 0071 and 0155, as well as Example 4 of Viovy. Addendum A and Addendum B are submitted with this Response in order to provide a ready comparison of various embodiments of a polymer of the claimed compositions of the instant application to that of the teachings of the subject polymers of Viovy, respectively.

In Addendum A, an exemplary synthetic pathway that may lead to various embodiments of a polymer of claimed compositions of the instant application is illustrated. In a preparation step (I.), dimethylacrylamide (DMA) monomer may be used to create a poly(DMA) homopolymer (PDMA); designated as  $P_I$  (see, for example, but not limited by, the instant application, paragraphs 0197-0213). In another step (II.), acrylamide monomer starting material is used under specified conditions to create a poly(acrylamide) (PAA) propagating macro-radical species; designated as  $P_{II}$  (see for example, but not limited by, the instant application, paragraph 0111). In a subsequent step (III.) macro-radical  $P_{II}$  may abstract a hydrogen atom from  $P_I$  to form a new macro-radical  $P_{III}$  (see for example, but not limited by, the instant application, paragraph 0112). In a chain termination reaction (IV.), propagating macro-radical  $P_{II}$

and macro-radical  $P_{III}$  may react to form various embodiments of a polymer of claimed compositions of the instant application (see for example, but not limited by, the instant application, paragraph 0113). The various embodiments of  $P_{IV}$  have a carbon-carbon bond formed between the linkage moiety and the pendent group to provide various embodiments of a polymer having a PDMA backbone and a PAA pendant structure.

In contrast, Addendum B illustrates polymers of compositions taught by Viovy, as per the relevant sections of Viovy recited in the Action. In a first step (I.) of Viovy, DMA monomer may be reacted with aminoethanethiol, forming a Michael adduct; designated  $P_I$ , producing an aminated polymer having a thiol linkage to PDMA (see Viovy, for example, paragraphs 0133, 0136, 0138, 0141, and 0154). In a subsequent step (II.), the aminated polymer  $P_I$  may be reacted with acrylic acid to form a PDMA-type macromonomer  $P_{II}$  (see Viovy, for example, paragraphs 0142 and 0154). In step (III A.), acrylamide monomer may be reacted with  $P_{II}$  to form the polymer  $P_{IIIA}$  as described in Example 4. An alternative embodiment of a polymer taught by Viovy is illustrated in  $P_{IIIB}$  (see paragraph 0071). In either embodiment, the linkage between a PAA or a PDMA backbone is an N-ethanethiol-type linkage, and is clearly different from the linkage provided in various embodiments of a polymer of claimed compositions of the instant application.

Accordingly, the Applicant respectfully avers that various embodiments of polymers of claimed compositions of the instant application are clearly structurally distinct from the polymers of the compositions taught by Viovy. As such, various embodiments of polymers of claimed compositions of the instant application are not anticipated by Viovy. Therefore, the Applicant respectfully requests that the rejection be withdrawn.

### **CONCLUSION**


The Applicant submits that all of the claims are in condition for allowance, which action is requested. If the Examiner finds that a telephone conference would expedite the prosecution of this case, the Examiner is invited to contact me at the telephone number listed below.

### **Fee Authorization**

Should any extension of time and/or fee be necessary for the timely submission of this paper, such extension of time is hereby requested, and the Commissioner is hereby authorized to charge **Deposit Account No. 01-2213 (order no. 4764)**. Any deficiency or overpayment should be charged or credited to this deposit account.

Respectfully submitted,

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